

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TYREIK WILLIAMS,

Plaintiff,

-against-

CITY OF NEW YORK, COMMISSIONER  
BRANN, AND BUREAU CHIEF CANTY,

Defendants.  
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**ANSWER TO THE COMPLAINT  
ON BEHALF OF DEFENDANTS  
CITY OF NEW YORK,  
COMMISSIONER BRANN, AND  
BUREAU CHIEF CANTY**

18-CV-5175 (VSB)

JURY TRIAL DEMANDED

Defendants City of New York, Commissioner Cynthia Brann, and Bureau Chief Yolanda Canty, by their attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for their answer to the Complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations contained in paragraph “I” of the Form Complaint, except admit that plaintiff purports to bring this action as stated therein.

2. Admit the allegations contained in paragraph “II” of the Form Complaint, except state that plaintiff is currently incarcerated at the North Infirmery Command, 15-00 Hazen Street, East Elmhurst, NY 11370.

3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in in paragraph “III” of the Form Complaint, except admit that plaintiff was incarcerated at the George R. Vierno Center (“GRVC”) located at 09-09 Hazen Street, East Elmhurst, NY 11370 on or about May 19, 2018.

4. Deny the allegations contained in paragraph “IV” of the Form Complaint, except admit that plaintiff purports to proceed as stated therein.

5. Deny the allegations contained in paragraph “V” of the Form Complaint and its subsections, except admit that plaintiff was arrested on or about April 18, 2018, and was subsequently incarcerated at West Facility from approximately April 24, 2018 until May 17, 2018.

6. Deny the allegations contained in paragraph “VI” of the Form Complaint, except admit that plaintiff purports to seek relief as stated therein.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “VII” of the Form Complaint.

**FIRST AFFIRMATIVE DEFENSE:**

8. The complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE:**

9. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and was not the proximate result of any act of defendants City of New York, Commissioner Cynthia Brann, or Bureau Chief Yolanda Canty.

**THIRD AFFIRMATIVE DEFENSE:**

10. Plaintiff provoked any incident.

**FOURTH AFFIRMATIVE DEFENSE:**

11. Defendants City of New York, Commissioner Cynthia Brann, and Bureau Chief Yolanda Canty have not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

**FIFTH AFFIRMATIVE DEFENSE:**

12. Defendants Commissioner Cynthia Brann and Bureau Chief Yolanda Canty have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, are protected by qualified immunity.

**SIXTH AFFIRMATIVE DEFENSE:**

13. Plaintiff may have failed to comply with New York General Municipal Law §§ 50(e), *et seq.*

**SEVENTH AFFIRMATIVE DEFENSE:**

14. At all times relevant to the acts alleged in the complaint, defendants Commissioner Cynthia Brann, and Bureau Chief Yolanda Canty acted reasonably in the proper and lawful exercise of their discretion.

**EIGHTH AFFIRMATIVE DEFENSE:**

15. Plaintiff's claims may be barred, in whole or in part, by the Prison Litigation Reform Act, 42 U.S.C. § 1997e, for failure to exhaust his administrative remedies.

**NINTH AFFIRMATIVE DEFENSE:**

16. Plaintiff's claims may be barred, in whole or in part, by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(e), for alleging a *de minimis* physical injury.

**TENTH AFFIRMATIVE DEFENSE:**

17. Defendants Commissioner Cynthia Brann and Bureau Chief Yolanda Canty had no personal involvement in the incidents alleged in the complaint.

**ELEVENTH AFFIRMATIVE DEFENSE:**

18. Plaintiff has failed to mitigate his alleged damages.

**TWELFTH AFFIRMATIVE DEFENSE:**

19. At all times relevant to the acts alleged in the complaint, the duties and functions of the municipal defendant's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City of New York is entitled to governmental immunity from liability.

**WHEREFORE**, defendants City of New York, Commissioner Cynthia Brann, and Bureau Chief Yolanda Canty request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
January 4, 2019

ZACHARY W. CARTER  
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New York  
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By: /s/  
Maria Fernanda DeCastro  
*Assistant Corporation Counsel*

cc: **BY FIRST-CLASS MAIL**  
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